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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/498,772	02/05/2000	Alex Krister Raith	P-4015.398/P10569-BMOT-US	9286

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EXAMINER

BEAMER, TEMICA M

ART UNIT	PAPER NUMBER
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2681

DATE MAILED: 10/20/2004

*JS*

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/498,772

**Applicant(s)**

RAITH, ALEX KRISTER

**Examiner**

Ternica M. Beamer

**Art Unit**

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**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 July 2004.  
2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 2-5,8-26,32,43,45,46,49 and 3336 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☒ Claim(s) 2-5,8-14,32,33,36,37,45,46 and 49 is/are allowed.  
6) ☒ Claim(s) 15-20,23-26 and 38-42 is/are rejected.  
7) ☒ Claim(s) 21,22 and 43 is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 15-20, 23-26 and 28-42 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 15-17, 20, 21, 23-25 and 38-42 rejected under 35 U.S.C. 103(a) as being unpatentable over Wan, U.S. Patent No. 6,385,460 in view of Yen, U.S. Patent No. 6,539,230.

Regarding claims 15 and 38, Wan discloses a method of determining the position of a mobile station comprising determining a position of said mobile station at a first time instant and updating said position periodically (col. 7, lines 9-16, col. 2, lines 15-31).

Wan, however, fails to disclose wherein a frequency of said updating is a function of said position of said mobile station.

In a similar field of endeavor, Yen discloses dynamic maintenance of location dependent operating parameters in a wireless terminal and further discloses, wherein a

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frequency of updating a mobile's position is a function of said position of said mobile station (col. 3, lines 7-34).

At the time of invention, it would have been obvious to a person of ordinary skill in the art to modify Wan with the teachings of Yen for the purpose of ensuring the mobile device can obtain service if it has traveled/roams to a new location/service area (Yen, col. 2, lines 18-62).

Regarding claims 16 and 39, the combination of Wan and Yen discloses the method of claims 15 and 38 wherein said frequency of updating/determining said position is a function of the relative position of said mobile station with respect to a first base station serving said mobile station (Wan, col. 1, line 64-col. 2, line 31).

Regarding claims 17 and 40, the combination of Wan and Yen discloses the method of claim 15 wherein said frequency of updating said position is a function of the relative position of said mobile station with respect to a first base station serving said mobile station and at least one of said additional base station (Wan, col. 1, line 64-col. 2, line 31).

Regarding claims 20 and 41, the combination of Wan and Yen discloses the method of claim 15 wherein said frequency of updating/determining said position is a function of the mobility of said mobile station (Wan, col. 1, line 64-col. 2, line 31).

Regarding claims 21 and 42, the combination of Wan and Yen discloses the method of claim 20 wherein said frequency of updating /determining said position is a function of said position of said mobile station (Wan, col. 1, line 64-col. 2, line 31).

Regarding claim 23, the combination of Wan and Yen discloses the method of claim 15, wherein said updating is performed by said mobile station while said mobile station is in an idle mode (Wan, col. 1, line 64-col. 2, line 2).

Regarding claims 24 and 25, the combination of Wan and Yen discloses the method of claim 15 wherein updating is performed by said mobile station is engaged in a packet switched or circuit switched call (i.e., voice or data call) (Wan, col. 3, lines 60-61).

4. Claims 18, 19 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wan, Yen and further in view of Chun et al (Chun), U.S. Patent No. 6,564,057.

Regarding claim 18, the combination of Wan and Yen discloses the channel selection method of claim 17 as described above. The combination, however, fails to disclose wherein the position of the at least one additional base station is transmitted to the mobile station by said first base station.

Chun discloses this limitation (col. 5, lines 18-24, col. 6, lines 35-39 and col. 7, lines 42-60).

At the time of invention, it would have been obvious to a person of ordinary skill in the art to modify the combination of Wan and Yen with the teachings of Chun for the purpose of allowing the system to know the location of a more suitable handoff candidate (Chun, col. 5, line 49-col. 6, line 7).

Regarding claim 19, the combination of Wan, Yen and Chun discloses the channel selection method of claim 18 wherein the position of the additional base station

is included in a neighbor list transmitted to the mobile station by the first base station (Chun, col. 5, lines 18-24, col. 6, lines 35-39 and col. 7, lines 42-60).

Regarding claim 26, the combination of Wan and Yen discloses the method of claim 15 as described above. The combination, however, fails to disclose transmitting position information from the mobile station to the base station.

Chun discloses this limitation (col. 5, lines 28-35).

At the time of invention, it would have been obvious to a person of ordinary skill in the art to modify the combination of Wan and Yen with the teachings of Chun for the purpose of allowing the system to know the location of a more suitable handoff candidate (Chun, col. 5, line 49-col. 6, line 7).

***Allowable Subject Matter***

5. Claims 2-5, 8-14, 32, 33, 36, 37, 45, 46 and 49 are allowed.
6. The following is a statement of reasons for the indication of allowable subject matter: Prior art fails to suggest or render obvious a method of channel selection based on channel quality measurements as described in the independent claims.
7. Claims 21, 22 and 43 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

**Conclusion**

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Temica M. Beamer whose telephone number is (703) 306-5837. The examiner can normally be reached on Monday-Thursday (alternate Fridays) 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Hudspeth can be reached on (703) 308-4825. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Temica M. Beamer  
Examiner  
Art Unit 2681

October 18, 2004

